

Statement No. 81-1, *Procedure for Sampling Waybill Records by Computer*, issued by the Interstate Commerce Commission, which may be revised from time to time.

(2) The sampling rates for the computerized system are as follows:

Number of carloads on waybill	Sample rate
1 to 2 .....	1/40
3 to 15 .....	1/12
16 to 60 .....	1/4
61 to 100 .....	1/3
101 and over .....	1/2

(d) *Controls and Annual Counts.* (1) Each subject railroad shall maintain a control procedure to ensure complete and accurate reporting for the waybill sampling. All pertinent waybill data shall be included on hard copy waybill submissions including inbound references for transit waybills. All such pertinent waybill data shall be legible.

(2) All subject railroads shall maintain a record of the number of line-haul revenue carloads that terminated on their line in a calendar year and shall furnish this number when requested by the Commission.

(3) All subject railroads using the manual system of reporting shall furnish the Commission, in accordance with instructions on the Transmittal Form OPAD-2, the total counts of line-haul revenue waybills terminated in each reporting period for the following three categories:

(i) Waybills, with less than six carloads per waybill,

(ii) Waybills with 6 to 25 carloads per waybill, and

(iii) Waybills with 26 or more carloads per waybill.

(4) All subject railroads on the computerized system of reporting shall furnish the Commission the control counts and tape specification information as required by the Statement No. 81-1.

(5) Certification by a responsible officer of the subject railroad as to the completeness and accuracy of sample shall be made once a year in accordance with the instructions on the Transmittal Forms OPAD-1 or OPAD-2.

[46 FR 26784, May 15, 1981, as amended at 46 FR 45141, Sept. 10, 1981]

#### § 1244.4 Date of filing.

(a) The reporting period for which subject railroads submit waybill sample information shall be the audit (accounting) month except as specified below:

(1) Subject railroads using the computerized system may submit waybill sample information quarterly as specified in Statement 81-1.

(2) Subject railroad using the manual system may submit waybill sample information quarterly if it submits fewer than 1,000 waybills per year.

(b) Waybill sample information shall be forwarded no later than 60 days from the end of the reporting period to the Commission.

(c) When the submitted waybill sample information is returned to the submitting railroad for correction, that railroad shall resubmit corrected data to the Commission promptly but no later than 60 days after its receipt.

(d) *Transmittal Forms.* (1) Subject railroads using the manual system of reporting shall complete the Transmittal Form OPAD-2, to accompany each waybill sample submission.

(2) Subject railroads using the computerized system of reporting shall complete the Transmittal Form OPAD-1, to accompany each waybill tape submission.

#### § 1244.5 Retention of files.

(a) Subject railroads which submit waybill sample data by the computerized system instead of the manual system shall retain the underlying hard copy waybills or facsimiles capable of producing legible copies, which shall be complete including inbound references for transit waybills, for a minimum period of four years.

(b) This file of retained waybills shall be maintained in such a manner that the railroads on the computerized system may readily retrieve waybill copies using the waybill identifier code as shown on the submitted computerized waybill record.

#### § 1244.6 Special studies.

(a) Although routine submission of hard copy waybills is eliminated when a railroad reports under the computerized system, the Commission may

order that railroad to submit hard copies of the underlying waybills for special studies.

(b) The Commission may order the subject railroads to supply additional data for submitted waybill copies or records for special studies.

**§ 1244.7 Analysis of waybill data.**

Users of the waybill sample when presenting waybill analysis before the Commission shall ensure that the appropriate weighting factors are applied to account for the stratified sampling. See Statement 81-1 for guidelines for weighting waybill data and for computing sampling errors.

**§ 1244.8 Procedures for the release of waybill data.**

(a) *General.* The procedures for the release of waybill data identify five classes of users of the ICC Waybill Sample, define the waybill information or data that each class of users may obtain, and set forth the applicable requirements for the data's release. They also formalize notice and protest procedures for the possible release of waybill data to other users to protect against the inappropriate release of confidential data. The Director of the Office of Transportation Analysis shall be responsible for releasing waybill data in accordance with these procedures.

(b) *Class of user, available data, and applicable release requirements.* (1) *Railroads.* Each requesting railroad may obtain any waybill record from the ICC Waybill Sample covering traffic that originated, terminated, or was bridged by that railroad. The railroad shall not have access to waybill data pertaining to traffic in which it did not participate. Also, it must meet all ICC and legal requirements concerning release of shipper information in accordance with 49 U.S.C. 11910(a).

(2) *Federal agencies.* Each requesting Federal agency (including quasi-governmental agencies) may obtain any waybill record from the ICC Waybill Sample subject to the following requirements:

(i) The Federal agency shall make the information contained in the ICC Waybill Sample available only to its employees or those contractors work-

ing on the particular project or study requiring the waybill data.

(ii) The Federal agency will ensure that railroads and shippers are afforded the same privilege and protection against disclosure of the waybill data as the Commission provides.

(iii) The Federal agency will not release any data to the public unless the data elements are aggregated to contain at least three shippers and to prevent identification of an individual railroad.

(iv) The Federal agency will refer any requests for waybill data and accompanying documentation to the ICC for processing and will so inform the requesting party of such referral to the Commission.

(v) The Federal agency must sign an agreement annually with the Commission agreeing to these restrictions.

(3) *States.* Each requesting State may obtain any waybill record pertaining to traffic that was originated, terminated, interchanged in, or that passed through its State subject to the same requirements imposed on federal agencies under paragraphs (b)(2)(i) through (v) of this section.

(4) *Transportation practitioners, consulting firms, and law firms—specific proceedings.* Transportation practitioners, consulting firms and law firms may use data from the ICC Waybill Sample in preparing verified statements to be submitted in formal proceedings before the ICC and/or State Commissions (Commission) subject to the following requirements:

(i) The ICC Waybill Sample is the only single source of the data or obtaining the data from other sources is burdensome or costly, and the data is relevant to issues pending before the Commission.

(ii) The requestor submits to the ICC a written waybill request that complies with § 1244.8(e).

(iii) All waybill data must be returned to the ICC, and the firm must not keep any copies.

(iv) A transportation practitioner, consulting firm, or law firm must submit any evidence drawn from the ICC Waybill Sample to the Commission only unless the evidence is aggregated to the level of at least three shippers and will prevent the identification of